

108TH CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. GREGG (for himself and Mr. KENNEDY) introduced the following bill;
which was read twice and referred to the Committee on _____

A BILL

To reauthorize the Individuals with Disabilities Education
Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Individuals with Dis-
5 abilities Education Improvement Act of 2003”.

1 **TITLE I—AMENDMENTS TO THE**
2 **INDIVIDUALS WITH DISABIL-**
3 **ITIES EDUCATION ACT**

4 **SEC. 101. AMENDMENTS TO THE INDIVIDUALS WITH DIS-**
5 **ABILITIES EDUCATION ACT.**

6 Parts A through D of the Individuals with Disabil-
7 ities Education Act (20 U.S.C. 1400 et seq.) are amended
8 to read as follows:

9 **“PART A—GENERAL PROVISIONS**

10 **“SEC. 601. SHORT TITLE; TABLE OF CONTENTS; FINDINGS;**
11 **PURPOSES.**

12 “(a) SHORT TITLE.—This Act may be cited as the
13 ‘Individuals with Disabilities Education Act’.

14 “(b) TABLE OF CONTENTS.—The table of contents
15 for this Act is as follows:

“PART A—GENERAL PROVISIONS

“Sec. 601. Short title; table of contents; findings; purposes.

“Sec. 602. Definitions.

“Sec. 603. Office of Special Education Programs.

“Sec. 604. Abrogation of State sovereign immunity.

“Sec. 605. Acquisition of equipment; construction or alteration of facilities.

“Sec. 606. Employment of individuals with disabilities.

“Sec. 607. Requirements for prescribing regulations.

“Sec. 608. State administration.

“Sec. 609. Report to Congress

“PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN
WITH DISABILITIES

“Sec. 611. Authorization; allotment; use of funds; authorization of appropri-
ations.

“Sec. 612. State eligibility.

“Sec. 613. Local educational agency eligibility.

“Sec. 614. Evaluations, eligibility determinations, individualized education pro-
grams, and educational placements.

“Sec. 615. Procedural safeguards.

“Sec. 616. Monitoring, technical assistance, and enforcement.

“Sec. 617. Administration.

“Sec. 618. Program information.

3

“Sec. 619. Preschool grants.

“PART C—INFANTS AND TODDLERS WITH DISABILITIES

“Sec. 631. Findings and policy.

“Sec. 632. Definitions.

“Sec. 633. General authority.

“Sec. 634. Eligibility.

“Sec. 635. Requirements for statewide system.

“Sec. 636. Individualized family service plan.

“Sec. 637. State application and assurances.

“Sec. 638. Uses of funds.

“Sec. 639. Procedural safeguards.

“Sec. 640. Payor of last resort.

“Sec. 641. State Interagency Coordinating Council.

“Sec. 642. Federal administration.

“Sec. 643. Allocation of funds.

“Sec. 644. Authorization of appropriations.

“PART D—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF
CHILDREN WITH DISABILITIES

“Sec. 650. Findings and purpose.

“Subpart 1—State Personnel Preparation and Professional Development
Grants

“Sec. 651. Purpose; definition; program authority.

“Sec. 652. Eligibility and collaborative process.

“Sec. 653. Applications.

“Sec. 654. Use of funds.

“Sec. 655. Authorization of appropriations.

“Subpart 2—Scientifically Based Research, Technical Assistance, Model
Demonstration Projects, and Dissemination of Informa-
tion

“Sec. 660. Purpose.

“Sec. 661. Administrative provisions.

“Sec. 662. Research to improve results for children with disabilities.

“Sec. 663. Technical assistance, demonstration projects, dissemination of infor-
mation, and implementation of scientifically based research.

“Sec. 664. Personnel development to improve services and results for children
with disabilities.

“Sec. 665. Studies and evaluations.

“Subpart 3—Supports To Improve Results for Children With Disabilities

“Sec. 670. Purposes.

“Sec. 671. Parent training and information centers.

“Sec. 672. Community parent resource centers.

“Sec. 673. Technical assistance for parent training and information centers.

“Sec. 674. Technology development, demonstration, and utilization; and media
services.

“Sec. 675. Authorization of appropriations.

“Subpart 4—Interim Alternative Educational Settings, Behavioral Sup-
ports, and Whole School Interventions

“Sec. 681. Purpose.

“Sec. 682. Definition of eligible entity.

“Sec. 683. Program authorized.

“Sec. 684. Program evaluations.

“Sec. 685. Authorization of appropriations.

1 “(c) FINDINGS.—Congress finds the following:

1 “(1) Disability is a natural part of the human
2 experience and in no way diminishes the right of in-
3 dividuals to participate in or contribute to society.
4 Improving educational results for children with dis-
5 abilities is an essential element of our national policy
6 of ensuring equality of opportunity, full participa-
7 tion, independent living, and economic self-suffi-
8 ciency for individuals with disabilities.

9 “(2) Before the date of the enactment of the
10 Education for All Handicapped Children Act of
11 1975 (Public Law 94–142), the educational needs of
12 millions of children with disabilities were not being
13 fully met because—

14 “(A) the children did not receive appro-
15 priate educational services;

16 “(B) the children were excluded entirely
17 from the public school system and from being
18 educated with their peers;

19 “(C) undiagnosed disabilities prevented the
20 children from having a successful educational
21 experience; or

22 “(D) a lack of adequate resources within
23 the public school system forced families to find
24 services outside the public school system.

1 “(3) Since the enactment and implementation
2 of the Education for All Handicapped Children Act
3 of 1975, this Act has been successful in ensuring
4 children with disabilities and the families of such
5 children access to a free appropriate public edu-
6 cation and in improving educational results for chil-
7 dren with disabilities.

8 “(4) However, the implementation of this Act
9 has been impeded by low expectations, and an insuf-
10 ficient focus on applying replicable research on prov-
11 en methods of teaching and learning for children
12 with disabilities.

13 “(5) Over 25 years of research and experience
14 has demonstrated that the education of children with
15 disabilities can be made more effective by—

16 “(A) having high expectations for such
17 children and ensuring their access to the gen-
18 eral education curriculum in the regular class-
19 room to the maximum extent possible in order
20 to—

21 “(i) meet developmental goals and, to
22 the maximum extent possible, the chal-
23 lenging expectations that have been estab-
24 lished for all children; and

1 “(ii) be prepared to lead productive
2 and independent adult lives, to the max-
3 imum extent possible;

4 “(B) strengthening the role and responsi-
5 bility of parents and ensuring that families of
6 such children have meaningful opportunities to
7 participate in the education of their children at
8 school and at home;

9 “(C) coordinating this Act with other local,
10 educational service agency, State, and Federal
11 school improvement efforts, including improve-
12 ment efforts under the Elementary and Sec-
13 ondary Education Act of 2001, in order to en-
14 sure that such children benefit from such ef-
15 forts and that special education can become a
16 service for such children rather than a place
17 where they are sent;

18 “(D) providing appropriate special edu-
19 cation and related services, and aids and sup-
20 ports in the regular classroom, to such children,
21 whenever appropriate;

22 “(E) supporting high-quality, intensive
23 preservice preparation professional development
24 for all personnel who work with children with
25 disabilities in order to ensure that such per-

1 sonnel have the skills and knowledge necessary
2 to improve the academic achievement and func-
3 tional performance of children with disabilities,
4 including the use of scientifically based instruc-
5 tional practices, to the maximum extent pos-
6 sible;

7 “(F) providing incentives for whole-school
8 approaches, scientifically based early reading
9 programs, positive behavioral interventions and
10 supports, and prereferral intervention to reduce
11 the need to label children as disabled in order
12 to address their learning and behavioral needs;

13 “(G) focusing resources on teaching and
14 learning while reducing paperwork and require-
15 ments that do not assist in improving edu-
16 cational results; and

17 “(H) supporting the development and use
18 of technology, including assistive technology de-
19 vices and assistive technology services, to maxi-
20 mize accessibility for children with disabilities.

21 “(6) While States, local educational agencies,
22 and educational service agencies are primarily re-
23 sponsible for providing an education for all children
24 with disabilities, it is in the national interest that
25 the Federal Government have a supporting role in

1 assisting State and local efforts to educate children
2 with disabilities in order to improve results for such
3 children and to ensure equal protection of the law.

4 “(7) A more equitable allocation of resources is
5 essential for the Federal Government to meet its re-
6 sponsibility to provide an equal educational oppor-
7 tunity for all individuals.

8 “(8)(A) The Federal Government must be re-
9 sponsive to the growing needs of an increasingly
10 more diverse society.

11 “(B) America’s ethnic profile is rapidly chang-
12 ing. In the year 2000, 1 of every 3 persons in the
13 United States was a member of a minority group or
14 was limited English proficient.

15 “(C) Minority children comprise an increasing
16 percentage of public school students.

17 “(D) With such changing demographics, re-
18 cruitment efforts for special education personnel
19 should focus on increasing the participation of mi-
20 norities in the teaching profession.

21 “(9)(A) The limited English proficient popu-
22 lation is the fastest growing in our Nation, and the
23 growth is occurring in many parts of our Nation.

24 “(B) Studies have documented apparent dis-
25 crepancies in the levels of referral and placement of

1 limited English proficient children in special edu-
2 cation.

3 “(C) This poses a special challenge for special
4 education in the referral of, assessment of, and serv-
5 ices for, our Nation’s students from non-English
6 language backgrounds.

7 “(10)(A) Greater efforts are needed to prevent
8 the intensification of problems connected with
9 mislabeling and high dropout rates among minority
10 children with disabilities.

11 “(B) More minority children continue to be
12 served in special education than would be expected
13 from the percentage of minority students in the gen-
14 eral school population.

15 “(C) African-American children are over identi-
16 fied as having mental retardation and emotional dis-
17 turbance at rates greater than their white counter-
18 parts.

19 “(D) In the 1998–1999 school year, African-
20 American children represented just 14.8 percent of
21 the population aged 6 through 21, but comprised
22 20.2 percent of all children with disabilities.

23 “(E) Studies have found that schools with pre-
24 dominately Caucasian students and teachers have

1 placed disproportionately high numbers of their mi-
2 nority students into special education.

3 “(11)(A) As the number of minority students in
4 special education increases, the number of minority
5 teachers and related services personnel produced in
6 colleges and universities continues to decrease.

7 “(B) The opportunity for minority individuals,
8 organizations, and Historically Black Colleges and
9 Universities to participate fully in awards for grants
10 and contracts, boards of organizations receiving
11 funds under this Act, and peer review panels, and in
12 the training of professionals in the area of special
13 education is essential if we are to obtain greater suc-
14 cess in the education of minority children with dis-
15 abilities.

16 “(d) PURPOSES.—The purposes of this title are—

17 “(1)(A) to ensure that all children with disabil-
18 ities have available to them a free appropriate public
19 education that emphasizes special education and re-
20 lated services designed to meet their unique needs
21 and prepare them for employment, further edu-
22 cation, and independent living;

23 “(B) to ensure that the rights of children with
24 disabilities and parents of such children are pro-
25 tected; and

1 “(C) to assist States, localities, educational
2 service agencies, and Federal agencies to provide for
3 the education of all children with disabilities;

4 “(2) to assist States in the implementation of
5 a Statewide, comprehensive, coordinated, multidisci-
6 plinary, interagency system of early intervention
7 services for infants and toddlers with disabilities and
8 their families;

9 “(3) to ensure that educators and parents have
10 the necessary tools to improve educational results for
11 children with disabilities by supporting systemic-
12 change activities; coordinated research and personnel
13 preparation; coordinated technical assistance, dis-
14 semination, and support; and technology develop-
15 ment and media services; and

16 “(4) to assess, and ensure the effectiveness of,
17 efforts to educate children with disabilities.

18 **“SEC. 602. DEFINITIONS.**

19 “Except as otherwise provided, as used in this Act:

20 “(1) **ASSISTIVE TECHNOLOGY DEVICE.**—The
21 term ‘assistive technology device’ means any item,
22 piece of equipment, or product system, whether ac-
23 quired commercially off the shelf, modified, or cus-
24 tomized, that is used to increase, maintain, or im-

1 prove functional capabilities of a child with a dis-
2 ability.

3 “(2) ASSISTIVE TECHNOLOGY SERVICE.—The
4 term ‘assistive technology service’ means any service
5 that directly assists a child with a disability in the
6 selection, acquisition, or use of an assistive tech-
7 nology device. Such term includes—

8 “(A) the evaluation of the needs of such
9 child, including a functional evaluation of the
10 child in the child’s customary environment;

11 “(B) purchasing, leasing, or otherwise pro-
12 viding for the acquisition of assistive technology
13 devices by such child;

14 “(C) selecting, designing, fitting, custom-
15 izing, adapting, applying, maintaining, repair-
16 ing, or replacing of assistive technology devices;

17 “(D) coordinating and using other thera-
18 pies, interventions, or services with assistive
19 technology devices, such as those associated
20 with existing education and rehabilitation plans
21 and programs;

22 “(E) training or technical assistance for
23 such child, or, where appropriate, the family of
24 such child; and

1 “(F) training or technical assistance for
2 professionals (including individuals providing
3 education and rehabilitation services), employ-
4 ers, or other individuals who provide services to,
5 employ, or are otherwise substantially involved
6 in the major life functions of such child.

7 “(3) CHILD WITH A DISABILITY.—

8 “(A) IN GENERAL.—The term ‘child with a
9 disability’ means a child—

10 “(i) with mental retardation, hearing
11 impairments (including deafness), speech
12 or language impairments, visual impair-
13 ments (including blindness), serious emo-
14 tional disturbance (hereinafter referred to
15 as ‘emotional disturbance’), orthopedic im-
16 pairments, autism, traumatic brain injury,
17 other health impairments, or specific learn-
18 ing disabilities; and

19 “(ii) who, by reason thereof, needs
20 special education and related services.

21 “(B) CHILD AGED 3 THROUGH 9.—The
22 term ‘child with a disability’ for a child aged 3
23 through 9 (or any subset of that age range, in-
24 cluding ages 3 through 5), may, at the discre-

tion of the State and the local educational agency, include a child—

“(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in 1 or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

11 “(ii) who, by reason thereof, needs
12 special education and related services.

“(4) CORE ACADEMIC SUBJECT.—The term
‘core academic subject’ has the meaning given the
term in section 9101(11) of the Elementary and
Secondary Education Act of 1965.

17 “(5) EDUCATIONAL SERVICE AGENCY.—The
18 term ‘educational service agency’—

19 “(A) means a regional public multiservice
20 agency—

21 “(i) authorized by State law to de-
22 velop, manage, and provide services or pro-
23 grams to local educational agencies; and

24 “(ii) recognized as an administrative
25 agency for purposes of the provision of

1 special education and related services pro-
2 vided within public elementary schools and
3 secondary schools of the State; and

4 “(B) includes any other public institution
5 or agency having administrative control and di-
6 rection over a public elementary school or sec-
7 ondary school.

8 “(6) ELEMENTARY SCHOOL.—The term ‘ele-
9 mentary school’ means a nonprofit institutional day
10 or residential school that provides elementary edu-
11 cation, as determined under State law.

12 “(7) EQUIPMENT.—The term ‘equipment’
13 includes—

14 “(A) machinery, utilities, and built-in
15 equipment, and any necessary enclosures or
16 structures to house such machinery, utilities, or
17 equipment; and

18 “(B) all other items necessary for the
19 functioning of a particular facility as a facility
20 for the provision of educational services, includ-
21 ing items such as instructional equipment and
22 necessary furniture; printed, published, and
23 audio-visual instructional materials; tele-
24 communications, sensory, and other techno-

1 logical aids and devices; and books, periodicals,
2 documents, and other related materials.

3 “(8) EXCESS COSTS.—The term ‘excess costs’
4 means those costs that are in excess of the average
5 annual per-student expenditure in a local edu-
6 cational agency during the preceding school year for
7 an elementary school or secondary school student, as
8 may be appropriate, and which shall be computed
9 after deducting—

10 “(A) amounts received—

11 “(i) under part B of this title;

12 “(ii) under part A of title I of the El-
13 ementary and Secondary Education Act of
14 1965; and

15 “(iii) under parts A and B of title III
16 of that Act; and

17 “(B) any State or local funds expended for
18 programs that would qualify for assistance
19 under any of those parts.

20 “(9) FREE APPROPRIATE PUBLIC EDU-
21 CATION.—The term ‘free appropriate public edu-
22 cation’ means special education and related services
23 that—

1 “(A) have been provided at public expense,
2 under public supervision and direction, and
3 without charge;

4 “(B) meet the standards of the State edu-
5 cational agency;

6 “(C) include an appropriate preschool, ele-
7 mentary school, or secondary school education
8 in the State involved; and

9 “(D) are provided in conformity with the
10 individualized education program required
11 under section 614(d).

12 “(10) HIGHLY QUALIFIED; CONSULTATIVE
13 SERVICES.—

14 “(A) HIGHLY QUALIFIED.—The term
15 ‘highly qualified’, when used with respect to any
16 special education teacher teaching in a State,
17 means a teacher who—

18 “(i)(I) meets the definition of that
19 term in section 9101(23) of the Elemen-
20 tary and Secondary Education Act of
21 1965, including full State certification as a
22 special education teacher through a State
23 approved special education teacher prepa-
24 ration program (including certification ob-

1 tained through State or local educational
2 agency approved alternative routes); or

3 “(II) has passed a State special edu-
4 cation licensing examination and holds a li-
5 cense to teach special education in such
6 State,

7 except that when used with respect to any
8 teacher teaching in a public charter school, the
9 term means that the teacher meets the require-
10 ments set forth in the State’s statute on public
11 charter schools; and

12 “(ii) does not have certification or li-
13 censure requirements waived on an emer-
14 gency, temporary, or provisional basis;

15 “(iii) if the teacher provides only con-
16 sultative services to a regular education
17 teacher with respect to a core academic
18 subject, the special education teacher shall
19 meet the standards for subject knowledge
20 and teaching skills described in section
21 9101(23) of the Elementary and Sec-
22 ondary Education Act of 1965 that apply
23 to elementary school teachers; and

24 “(iv) if the teacher provides instruc-
25 tion in a core academic subject to middle

1 or secondary students who are performing
2 at the elementary level, the teacher shall
3 meet the standards for subject knowledge
4 and teaching skills described in section
5 9101(23) of the Elementary and Sec-
6 ondary Education Act of 1965 that apply
7 to elementary school teachers.

8 “(B) CONSULTATIVE SERVICES.—As used
9 in subparagraph (A)(iii), the term ‘consultative
10 services’ means—

11 “(i) consultation on adapting cur-
12 ricula, using positive behavioral supports
13 and interventions, and selecting appro-
14 priate accommodations, and does not in-
15 clude direct instruction of students; or

16 “(ii) teaching in collaboration with a
17 regular education teacher or teachers who
18 is or are highly qualified in the core aca-
19 demic subjects being taught.

20 “(11) INDIAN.—The term ‘Indian’ means an in-
21 dividual who is a member of an Indian tribe.

22 “(12) INDIAN TRIBE.—The term ‘Indian tribe’
23 means any Federal or State Indian tribe, band,
24 rancheria, pueblo, colony, or community, including
25 any Alaska Native village or regional village corpora-

1 tion (as defined in or established under the Alaska
2 Native Claims Settlement Act).

3 “(13) INDIVIDUALIZED EDUCATION PRO-
4 GRAM.—The term ‘individualized education program’
5 or ‘IEP’ means a written statement for each child
6 with a disability that is developed, reviewed, and re-
7 vised in accordance with section 614(d).

8 “(14) INDIVIDUALIZED FAMILY SERVICE
9 PLAN.—The term ‘individualized family service plan’
10 has the meaning given such term in section 636.

11 “(15) INFANT OR TODDLER WITH A DIS-
12 ABILITY.—The term ‘infant or toddler with a dis-
13 ability’ has the meaning given such term in section
14 632.

15 “(16) INSTITUTION OF HIGHER EDUCATION.—
16 The term ‘institution of higher education’—

17 “(A) has the meaning given such term in
18 section 101 (a) and (b) of the Higher Edu-
19 cation Act of 1965; and

20 “(B) also includes any community college
21 receiving funding from the Secretary of the In-
22 terior under the Tribally Controlled College or
23 University Assistance Act of 1978.

24 “(17) LOCAL EDUCATIONAL AGENCY.—

1 “(A) The term ‘local educational agency’
2 means a public board of education or other pub-
3 lic authority legally constituted within a State
4 for either administrative control or direction of,
5 or to perform a service function for, public ele-
6 mentary schools or secondary schools in a city,
7 county, township, school district, or other polit-
8 ical subdivision of a State, or for such combina-
9 tion of school districts or counties as are recog-
10 nized in a State as an administrative agency for
11 its public elementary schools or secondary
12 schools.

13 “(B) The term includes—

14 “(i) an educational service agency, as
15 defined in paragraph (4); and

16 “(ii) any other public institution or
17 agency having administrative control and
18 direction of a public elementary school or
19 secondary school.

20 “(C) The term includes an elementary
21 school or secondary school funded by the Bu-
22 reau of Indian Affairs, but only to the extent
23 that such inclusion makes the school eligible for
24 programs for which specific eligibility is not
25 provided to the school in another provision of

1 law and the school does not have a student pop-
2 ulation that is smaller than the student popu-
3 lation of the local educational agency receiving
4 assistance under this Act with the smallest stu-
5 dent population, except that the school shall not
6 be subject to the jurisdiction of any State edu-
7 cational agency other than the Bureau of In-
8 dian Affairs.

9 “(18) NATIVE LANGUAGE.—The term ‘native
10 language’, when used with respect to an individual
11 of limited English proficiency, means the language
12 normally used by the individual, or in the case of a
13 child, the language normally used by the parents of
14 the child.

15 “(19) NONPROFIT.—The term ‘nonprofit’, as
16 applied to a school, agency, organization, or institu-
17 tion, means a school, agency, organization, or insti-
18 tution owned and operated by 1 or more nonprofit
19 corporations or associations no part of the net earn-
20 ings of which inures, or may lawfully inure, to the
21 benefit of any private shareholder or individual.

22 “(20) OUTLYING AREA.—The term ‘outlying
23 area’ means the United States Virgin Islands,
24 Guam, American Samoa, and the Commonwealth of
25 the Northern Mariana Islands.

1 “(21) PARENT.—The term ‘parent’—

2 “(A) includes a legal guardian; and

3 “(B) except as used in sections 615(b)(2)

4 and 639(a)(5), includes an individual assigned

5 under either of those sections to be a surrogate

6 parent.

7 “(22) PARENT ORGANIZATION.—The term ‘par-

8 ent organization’ has the meaning given such term

9 in section 671(g).

10 “(23) PARENT TRAINING AND INFORMATION

11 CENTER.—The term ‘parent training and informa-

12 tion center’ means a center assisted under section

13 671 or 672.

14 “(24) RELATED SERVICES.—The term ‘related

15 services’ means transportation, and such develop-

16 mental, corrective, and other supportive services (in-

17 cluding speech-language pathology and audiology

18 services, psychological services, physical and occupa-

19 tional therapy, recreation, including therapeutic

20 recreation, social work services, school health serv-

21 ices, counseling services, including rehabilitation

22 counseling, orientation and mobility services, and

23 medical services, except that such medical services

24 shall be for diagnostic and evaluation purposes only)

25 as may be required to assist a child with a disability

1 to benefit from special education, and includes the
2 early identification and assessment of disabling con-
3 ditions in children.

4 “(25) SECONDARY SCHOOL.—The term ‘sec-
5 ondary school’ means a nonprofit institutional day or
6 residential school that provides secondary education,
7 as determined under State law, except that it does
8 not include any education beyond grade 12.

9 “(26) SECRETARY.—The term ‘Secretary’
10 means the Secretary of Education.

11 “(27) SPECIAL EDUCATION.—The term ‘special
12 education’ means specially designed instruction, at
13 no cost to parents, to meet the unique needs of a
14 child with a disability, including—

15 “(A) instruction conducted in the class-
16 room, in the home, in hospitals and institutions,
17 and in other settings; and

18 “(B) instruction in physical education.

19 “(28) SPECIFIC LEARNING DISABILITY.—

20 “(A) IN GENERAL.—The term ‘specific
21 learning disability’ means a disorder in 1 or
22 more of the basic psychological processes in-
23 volved in understanding or in using language,
24 spoken or written, which disorder may manifest
25 itself in the imperfect ability to listen, think,

1 speak, read, write, spell, or do mathematical
2 calculations.

3 “(B) DISORDERS INCLUDED.—Such term
4 includes such conditions as perceptual disabili-
5 ties, brain injury, minimal brain dysfunction,
6 dyslexia, and developmental aphasia.

7 “(C) DISORDERS NOT INCLUDED.—Such
8 term does not include a learning problem that
9 is primarily the result of visual, hearing, or
10 motor disabilities, of mental retardation, of
11 emotional disturbance, or of environmental, cul-
12 tural, or economic disadvantage.

13 “(29) STATE.—The term ‘State’ means each of
14 the 50 States, the District of Columbia, the Com-
15 monwealth of Puerto Rico, and each of the outlying
16 areas.

17 “(30) STATE EDUCATIONAL AGENCY.—The
18 term ‘State educational agency’ means the State
19 board of education or other agency or officer pri-
20 marily responsible for the State supervision of public
21 elementary schools and secondary schools, or, if
22 there is no such officer or agency, an officer or
23 agency designated by the Governor or by State law.

24 “(31) SUPPLEMENTARY AIDS AND SERVICES.—
25 The term ‘supplementary aids and services’ means

1 aids, services, and other supports that are provided
2 in regular education classes or other education-re-
3 lated settings to enable children with disabilities to
4 be educated with nondisabled children to the max-
5 imum extent appropriate in accordance with section
6 612(a)(5).

7 “(32) TRANSITION SERVICES.—The term ‘tran-
8 sition services’ means a coordinated set of activities
9 for a child with a disability (as defined in paragraph
10 (3)(A)) that—

11 “(A) is designed to be within a results-ori-
12 ented process, that is focused on improving the
13 academic and functional achievement of the
14 child with a disability to facilitate the child’s
15 movement from school to post-school activities,
16 including post-secondary education, vocational
17 training, integrated employment (including sup-
18 ported employment), continuing and adult edu-
19 cation, adult services, independent living, or
20 community participation;

21 “(B) is based on the individual child’s
22 needs, taking into account the child’s capacity,
23 preferences, and interests; and

24 “(C) includes instruction, related services,
25 community experiences, the development of em-

1 ployment and other post-school adult living ob-
2 jectives, and, when appropriate, acquisition of
3 daily living skills and functional vocational eval-
4 uation.

5 **“SEC. 603. OFFICE OF SPECIAL EDUCATION PROGRAMS.**

6 “(a) ESTABLISHMENT.—There shall be, within the
7 Office of Special Education and Rehabilitative Services in
8 the Department of Education, an Office of Special Edu-
9 cation Programs, which shall be the principal agency in
10 such Department for administering and carrying out this
11 Act and other programs and activities concerning the edu-
12 cation of children with disabilities.

13 “(b) DIRECTOR.—The Office established under sub-
14 section (a) shall be headed by a Director who shall be se-
15 lected by the Secretary and shall report directly to the As-
16 sistant Secretary for Special Education and Rehabilitative
17 Services.

18 “(c) VOLUNTARY AND UNCOMPENSATED SERV-
19 ICES.—Notwithstanding section 1342 of title 31, United
20 States Code, the Secretary is authorized to accept vol-
21 untary and uncompensated services in furtherance of the
22 purposes of this Act.

23 **“SEC. 604. ABROGATION OF STATE SOVEREIGN IMMUNITY.**

24 “(a) IN GENERAL.—A State shall not be immune
25 under the 11th amendment to the Constitution of the

1 United States from suit in Federal court for a violation
2 of this Act.

3 “(b) REMEDIES.—In a suit against a State for a vio-
4 lation of this Act, remedies (including remedies both at
5 law and in equity) are available for such a violation to
6 the same extent as those remedies are available for such
7 a violation in the suit against any public entity other than
8 a State.

9 “(c) EFFECTIVE DATE.—Subsections (a) and (b)
10 apply with respect to violations that occur in whole or part
11 after the date of enactment of the Education of the Handi-
12 capped Act Amendments of 1990.

13 **“SEC. 605. ACQUISITION OF EQUIPMENT; CONSTRUCTION**
14 **OR ALTERATION OF FACILITIES.**

15 “(a) IN GENERAL.—If the Secretary determines that
16 a program authorized under this Act will be improved by
17 permitting program funds to be used to acquire appro-
18 priate equipment, or to construct new facilities or alter
19 existing facilities, the Secretary is authorized to allow the
20 use of those funds for those purposes.

21 “(b) COMPLIANCE WITH CERTAIN REGULATIONS.—
22 Any construction of new facilities or alteration of existing
23 facilities under subsection (a) shall comply with the re-
24 quirements of—

1 “(1) appendix A of part 36 of title 28, Code of
2 Federal Regulations (commonly known as the
3 ‘Americans with Disabilities Accessibility Guidelines
4 for Buildings and Facilities’); or

5 “(2) appendix A of subpart 101–19.6 of title
6 41, Code of Federal Regulations (commonly known
7 as the ‘Uniform Federal Accessibility Standards’).

8 **“SEC. 606. EMPLOYMENT OF INDIVIDUALS WITH DISABIL-**
9 **ITIES.**

10 “The Secretary shall ensure that each recipient of as-
11 sistance under this Act makes positive efforts to employ
12 and advance in employment qualified individuals with dis-
13 abilities in programs assisted under this Act.

14 **“SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULA-**
15 **TIONS.**

16 “(a) IN GENERAL.—The Secretary may issue such
17 regulations as are necessary to ensure that there is compli-
18 ance with this Act.

19 “(b) PROTECTIONS PROVIDED TO CHILDREN.—The
20 Secretary may not implement, or publish in final form,
21 any regulation prescribed pursuant to this Act that—

22 “(1) violates or contradicts any provision of this
23 Act; and

24 “(2) procedurally or substantively lessens the
25 protections provided to children with disabilities

1 under this Act, as embodied in regulations in effect
2 on July 20, 1983 (particularly as such protections
3 related to parental consent to initial evaluation or
4 initial placement in special education, least restric-
5 tive environment, related services, timelines, attend-
6 ance of evaluation personnel at individualized edu-
7 cation program meetings, or qualifications of per-
8 sonnel), except to the extent that such regulation re-
9 flects the clear and unequivocal intent of the Con-
10 gress in legislation.

11 “(c) PUBLIC COMMENT PERIOD.—The Secretary
12 shall provide a public comment period of not less than 60
13 days on any regulation proposed under part B or part C
14 of this Act on which an opportunity for public comment
15 is otherwise required by law.

16 “(d) POLICY LETTERS AND STATEMENTS.—The Sec-
17 retary may not issue policy letters or other statements (in-
18 cluding letters or statements regarding issues of national
19 significance) that—

20 “(1) violate or contradict any provision of this
21 Act; or

22 “(2) establish a rule that is required for compli-
23 ance with, and eligibility under, this Act without fol-
24 lowing the requirements of section 553 of title 5,
25 United States Code.

1 “(e) EXPLANATION AND ASSURANCES.—Any written
2 response by the Secretary under subsection (d) regarding
3 a policy, question, or interpretation under part B of this
4 Act shall include an explanation in the written response
5 that—

6 “(1) such response is provided as informal guid-
7 ance and is not legally binding;

8 “(2) when required, such response is issued in
9 compliance with the requirements of section 553 of
10 title 5, United States Code; and

11 “(3) such response represents the interpretation
12 by the Department of Education of the applicable
13 statutory or regulatory requirements in the context
14 of the specific facts presented.

15 “(f) CORRESPONDENCE FROM DEPARTMENT OF
16 EDUCATION DESCRIBING INTERPRETATIONS OF THIS
17 ACT.—

18 “(1) IN GENERAL.—The Secretary shall, on a
19 quarterly basis, publish in the Federal Register, and
20 widely disseminate to interested entities through var-
21 ious additional forms of communication, a list of
22 correspondence from the Department of Education
23 received by individuals during the previous quarter
24 that describes the interpretations of the Department

1 of Education of this Act or the regulations imple-
2 mented pursuant to this Act.

3 “(2) ADDITIONAL INFORMATION.—For each
4 item of correspondence published in a list under
5 paragraph (1), the Secretary shall—

6 “(A) identify the topic addressed by the
7 correspondence and shall include such other
8 summary information as the Secretary deter-
9 mines to be appropriate; and

10 “(B) ensure that all such correspondence
11 is issued, where applicable, in compliance with
12 the requirements of section 553 of title 5,
13 United States Code.

14 **“SEC. 608. STATE ADMINISTRATION.**

15 “(a) RULEMAKING.—Each State that receives funds
16 under this Act shall—

17 “(1) ensure that any State rules, regulations,
18 and policies relating to this Act conform to the pur-
19 poses of this Act; and

20 “(2) identify in writing to its local educational
21 agencies and the Secretary any such rule, regulation,
22 or policy as a State-imposed requirement that is not
23 required by this Act and Federal regulations.

24 “(b) SUPPORT AND FACILITATION.—State rules, reg-
25 ulations, and policies under this Act shall support and fa-

1 cilitate local educational agency and school-level systemic
2 reform designed to enable children with disabilities to meet
3 the challenging State student academic achievement
4 standards.

5 **“SEC. 609. REPORT TO CONGRESS.**

6 “The Comptroller General shall conduct a review of
7 Federal, State, and local requirements to determine which
8 requirements result in excessive paperwork completion
9 burdens for teachers, related services providers, and school
10 administrators, and shall report to Congress not later than
11 18 months after the date of enactment of the Individuals
12 with Disabilities Education Improvement Act of 2003 re-
13 garding such review along with strategic proposals for re-
14 ducing the paperwork burdens on teachers.